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Request for the inclusion of an item in the provisional agenda of the seventy-third session

Strengthening and promoting the international treaty framework

Letter dated 7 June 2018 from the Permanent Representatives of Argentina, Austria, Brazil, Italy and Singapore to the United Nations addressed to the Secretary-General

Pursuant to rule 13 of the rules of procedure of the General Assembly, the Governments of Argentina, Austria, Brazil, Italy and Singapore have the honour to jointly request the inclusion of an item entitled "Strengthening and promoting the international treaty framework" in the provisional agenda of the seventy-third session of the General Assembly. We further request that this item be allocated to the Sixth Committee of the General Assembly.

In accordance with rule 20 of the rules of procedure of the General Assembly, enclosed herewith is an explanatory memorandum (see annex).

We should be grateful if the present letter and its annex could be circulated as a document of the General Assembly.

(*Signed*) Martin **García Moritán**
Ambassador
Permanent Representative of Argentina to the United Nations

(*Signed*) Jan **Kickert**
Ambassador
Permanent Representative of Austria to the United Nations

(*Signed*) Mauro **Vieira**
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(*Signed*) Sebastiano **Cardi**
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Annex

Explanatory memorandum

Strengthening and promoting the international treaty framework

Summary

1. The item "Strengthening and promoting the international treaty framework" would be included in the agenda of the seventy-third session of the General Assembly, to be allocated to the Sixth Committee. Its inclusion would create a dedicated platform for a review of the regulations to give effect to Article 102 of the Charter of the United Nations.[1] Adopted in 1946 and amended only three times, in 1949, 1950 and 1978, the regulations have been rendered out of date owing to the evolution of practice and technology. Their review would ensure that they are useful and relevant to Member States, as stressed by the Assembly in paragraph 10 of its resolution 72/119. If the Assembly so desires, a review of the item could also provide an opportunity for the discussion of other treaty law-related topics, such as the *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties*. This is an opportunity for the Assembly to revitalize the Sixth Committee and to ensure a more efficient use of existing resources.

Background

2. At its seventieth session, in paragraph 8 (b) of its resolution 70/118 on the rule of law at the national and international levels, the General Assembly invited the Secretary-General to review the regulations, taking into account recent developments. The Secretary-General provided the results of that review in his annual report on strengthening and coordinating United Nations rule of law activities (A/71/169, para. 25). The Sixth Committee did not have time, in its debate at the seventy-first session, to consider in detail the recommendations made by the Secretary-General. Nevertheless, in its resolution on the same agenda item, the Assembly commended the Secretary-General for his review and took note of his recommendations, and also requested him to further elaborate on the review and to submit a report on the registration and publication of treaties and international agreements pursuant to Article 102 of the Charter well in advance of the seventy-second session (resolution 71/148, paras. 8 (b) and 24).

3. In the report (A/72/86) submitted pursuant to that request, the Secretary-General outlined the historical background of the regulations and included seven areas for consideration by the General Assembly, with a view to ensuring that the text of the regulations reflected current practice and gave useful guidance to Member States on the fulfilment of their obligations under Article 102. The Secretary-General also discussed possible means of increasing the efficiency of the registration and publication process and enhancing the role played by the Treaty Section of the Office of Legal Affairs in supporting Member States in that area. The Sixth Committee did not have time to consider the recommendations of the Secretary-General in detail during its debate on the rule of law. In paragraph 10 of its resolution 72/119, the Assembly took note of the report, stressing that the regulations should be useful and relevant to Member States.

Reasons in support of the proposed item

4. A review of the regulations to give effect to Article 102 is clearly a matter within the scope of the Charter and therefore falls within the functions of the General

[1] Available at https://treaties.un.org/xml/db/MSDB/pageRegulation_en.html.

Assembly. In particular, given that the regulations were adopted by the Assembly at its first session, in 1946, any amendment requires a decision of the Assembly.

5. The inclusion of the proposed item in the provisional agenda of the seventy-third session would ensure that delegations have a platform for a dedicated debate on the review of the regulations. Such a review is long overdue, given that the regulations have not been updated since 1978. They should be amended to take into account developments in practice and technology. This would make the regulations more useful and relevant to Member States, which would, in turn, promote the implementation of the obligation under Article 102. Specifically, it would provide the opportunity to modernize practices, such as those pertaining to the dissemination of information on registered treaties.

6. The proposed item would also provide the Sixth Committee with the opportunity to reaffirm the importance of the registration and publication of treaties under Article 102 and to address the current shortcomings in treaty registration, through capacity-building, publications or technical assistance (see A/72/86, para. 17). It could also trigger an exchange of views among Member States regarding their treaty-making practice and serve as a platform for the identification of trends and the sharing of best practices in treaty-making.

7. The proposed item is also consistent with the broader consideration by the General Assembly of matters relating to the international treaty framework. At the session, Member States were invited to focus their comments in the Sixth Committee debate, to be held at the seventieth session of the Assembly, on the rule of law item on the subtopic "The role of multilateral treaty processes in promoting and advancing the rule of law" (see resolution 69/123, para. 20). Following that debate, the Assembly recognized the role of multilateral treaty processes in advancing the rule of law, expressing its support for various initiatives of the Secretariat, in particular the Treaty Section (see resolution 70/118, para. 8). The Assembly reaffirmed its support for those initiatives at its seventy-first and seventy-second sessions (see resolutions 71/148, para. 8, and 72/119, paras. 9–13).

8. The proposed item would be in line with the long-standing engagement of the General Assembly with the law of treaties. The work of the Assembly in this area resulted in the adoption of the Vienna Conventions of 1969, 1978 and 1986, but has continued uninterruptedly to this day, through the consideration of various topics examined by the International Law Commission. Mirroring the review of the multilateral treaty-making process conducted by the Assembly in the 1970s and early 1980s, as well as its work on the law of treaties in the context of the United Nations Decade of International Law in the 1990s, the proposed item would build on the role and involvement of the Assembly in the law of treaties and could lead to wider participation and transparency in the international treaty framework.

Conclusion

9. The inclusion of the proposed item would allow the General Assembly to update the regulations, as appropriate. The Assembly could also consider measures to address current shortcomings in treaty registration through capacity-building, publications or technical assistance, as well as those to ensure the timely publication of the *Treaty Series*. The Assembly could further consider establishing a reporting line for the Treaty Section and including the item in the provisional agenda of a future session in order to continue debate on other treaty-related topics, as agreed upon by the Assembly.